THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.7841 of 2002

Dated:25.07.2006

Between:

M.Timma Reddy and others.

…Petitioners

and

The Special Deputy Collector, and others.

…Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.7841 of 2002

ORDER:

The five petitioners claim to be the owners of agricultural lands situated at Mettupalli Village of Owk Mandal in Kurnool District. It appears the land of the petitioners was acquired for Srisailam Right Bank Canal (SRBC) and an award was passed. In the award, the land of the petitioners was allegedly shown as acquired land, but classified as assessed waste. The petitioners were, therefore, not paid any compensation. The petitioners contend that as per the orders of the Government in G.O.Ms.No.639, dated 29.09.2001, persons who are cultivating the land even without D-Form patta are entitled for compensation when the land is acquired. They allege that they have obtained necessary pattadar pass books and their names are shown in No.10(1) accounts and Adangal accounts of the Village, and therefore, they seek a writ of mandamus directing the respondents to pay the compensation.

The Special Deputy Collector (LA), SRBC, Nandyal, has filed a counter affidavit. It is the case of the respondents that the land in Survey Nos.726, 728/1, 728/2, 728/3 of Mettupalli Village of Owk Mandal is shown as Government land classified as assessed waste, and that after making necessary enquiry, though compensation was paid for the occupants of the lands in Survey No.728, the petitioners

were not paid any compensation. The petitioners did not submit any D-Form patta to claim the compensation. On further enquiry, it is stated that it was revealed that the petitioners purchased the assigned lands from the holders of D-Form pattas, and therefore, when the persons are in possession of the land in violation of the provisions of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977, they are not entitled for any compensation.

Though the counter affidavit is filed on 10.06.2002, no reply affidavit is filed denying the counter averments.

A copy of G.O.Ms.No.639, dated 29.09.2001, is annexed to the writ petition. The relevant portion in the said Government Order reads as under.

> 2. The Special Chief Secretary & Chief Commissioner of Land Administration in his letter 2nd read above, has offered his remarks on the proposals of the Special Collector, Srisailam Project to the Government for taking a decision.
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> 3. Government, after careful examination of the matter, hereby, order as follows:
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> (i) to pay ex-gratia for the lands which are in Category 'A' i.e., to D.K.T. Patta holders in terms of G.O.Ms.No.1307, Revenue, dated 23.12.1993.
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> (ii) As regards the lands covered in Category 'B' i.e., those who have been cultivating the land for a long period without D-Form Pattas, and whose possession is confirmed by entries in 10(1) and the Adangal accounts, may be paid ex-gratia which is equivalent to market value without solatium.
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> (iii) As regards the lands in Category 'D' i.e., those who are in possession and enjoyment of the lands and whose names are found only in the Adangal, may be paid ex-gratia which is 50% of the market value for deprivation of livelihood. No solatium would be payable.
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> (iv) As regards Category 'C' i.e., persons who have purchased assigned lands from D.K.T Patta holders will not be entitled for any ex-gratia, as it amounts to violation of the conditions of assignment and contravention of the provisions of A.P.Assigned Lands (POT) Act, 1977.
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> 4. The Collector, Kurnool, and the Special Collector, Srisailam Project, Kurnool, are requested to take action accordingly.

Having regard to the above guidelines, the petitioners are at liberty to approach the respondents by making appropriate application

and producing necessary proof in support of their claim. As and when the petitioners approach, the first respondent shall consider their claim and pass appropriate orders within a period of six weeks, keeping in view the decision of the Larger Bench of seven Judges of this Court in **LAO-cum-Revenue Divisional Officer, Chevella Division, Domalaguda, Hyderabad v. Mekala Pandu**[1].

The Writ Petition, with the observations and directions, is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

25.07.2006
vs

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[1] 2004(2) ALD 451 (LB)